



Continuation of Substance of Interview including description of the general nature of what was discussed:

It was agreed that the filed TD would overcome any potential rejection of obviousness-type double patenting using the parent application 10/268730, now issued US 7598031.

It was agreed that the declarations filed 11/3/09 and 10/13/09 would overcome any possible 112 1st paragraph rejection that would address "how to use" the claimed invention. The declarations provide data concerning applicant using the claimed method to screen multiple individuals as a process of screening for potential markers of a variety of diseases. It is not clear if the methods practiced in the declaration actually read on the instantly claimed invention because they utilize a commercially provided gene chip and it is unknown if this gene chip contains all of the genes recited in the instantly claimed invention. Nonetheless, the declarations provide findings that support the enablement of the claimed invention. Namely, for eight different diseases Applicant identified at least one gene from those listed in the claims that is that differentially expressed in the blood samples taken diseased individuals versus samples taken from healthy control samples. For example, the declaration filed 3/16/06 teaches that CDA was detected as differentially expressed in the colorectal cancer samples. Other diseases where at least one gene from those listed in Table 2 was determined to be differentially expressed include coronary artery disease, schizophrenia, heart failure, osteoarthritis, prostate cancer, and ovarian cancer.

It was agreed that claims 58-71 would be cancelled.

Potential amendment of the "determining" step to a "detecting" or "measuring" step in claim 44 was discussed, in order to clarify that the claims require a "wet step" i.e. a transformation of matter. However, it was agreed that these claims do require such a step by virtue of the fact that the determining must occur "in a blood sample of the subject" and also because all means of determining expression levels set forth in the specification require a transformation of matter (i.e. the physical analysis of the blood sample). It was agreed that claims 44-58 do not require amendment for allowability.

In a follow-up interview on 11/24, it was agreed that a terminal disclaimer would be filed to overcome any possible rejection for obviousness-type double patenting over 10/601,518. Also, Applicant indicated that an amendment would be filed re-ordering the listing of genes and cancelling claims 58-71.